

HONORABLE JOHN H. CHUN

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON, AT SEATTLE

BOARD OF TRUSTEES OF THE EMPLOYEE
PAINTERS' TRUST; BOARD OF TRUSTEES
OF THE WESTERN WASHINGTON
PAINTERS DEFINED CONTRIBUTION
PENSION TRUST; BOARD OF TRUSTEES
OF THE DISTRICT COUNCIL NO. 5
APPRENTICESHIP AND TRAINING TRUST
FUND; BOARD OF TRUSTEES OF THE
INTERNATIONAL PAINTERS AND ALLIED
TRADES INDUSTRY PENSION FUND;
BOARD OF TRUSTEES OF THE FINISHING
TRADES INSTITUTE; THE PAINTERS AND
ALLIED TRADES LABOR-MANAGEMENT
COOPERATION INITIATIVE; WESTERN
WASHINGTON SIGNATORY PAINTING
EMPLOYERS ASSOCIATION;
INTERNATIONAL UNION OF PAINTERS
AND ALLIED TRADES DISTRICT COUNCIL
NO. 5,

Plaintiffs,

vs.

GLOBAL COATINGS LLC, a Washington
limited liability company; MARK ANDREW
MCCALMAN, an individual; DOES & ROES I-
X,

Defendants.

CASE NO.: 2:22-cv-01645-JHC

**STIPULATION AND ORDER TO STAY
CASE PENDING COMPLETION OF A
PAYROLL COMPLIANCE AUDIT**

STIPULATION AND ORDER TO STAY CASE
PENDING COMPLETION OF A PAYROLL
COMPLIANCE AUDIT
Case No. 2:22-cv-01645-JHC

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2 The Plaintiffs, Board of Trustees of The Employee Painters' Trust, Board of Trustees of
3 The Western Washington Painters Defined Contribution Pension Trust, Board of Trustees of
4 The District Council No. 5 Apprenticeship and Training Trust Fund, Board of Trustees of The
5 International Painters and Allied Trades Industry Pension Fund, Board of Trustees of The
6 Finishing Trades Institute, The Painters and Allied Trades Labor-Management Cooperation
7 Initiative, Western Washington Signatory Painting Employers Association, International Union
8 of Painters and Allied Trades District Council No. 5 ("Plaintiffs"), acting by and through their
9 Counsel, Christensen James & Martin and The Urban Law Firm, and Defendants, Global
10 Coatings LLC, a Washington limited liability company and Mark Andrew McCalman, an
11 individual ("Defendants"), acting by and through their Counsel, Gordon Thomas Honeywell
12 LLP, hereby stipulate as follows:

13 1. The Plaintiffs, as employee benefit trust funds governed by the Employee
14 Retirement Income Security Act ("ERISA"), have alleged the right to review the employment,
15 payroll, and contract records of contributing employers, such as Defendant Global Coatings
16 LLC, to ensure compliance with the terms and conditions of applicable collective bargaining
17 agreements and trust agreements. Such a payroll compliance review is commonly called an
18 "Audit."

19 2. Defendants agree that within twenty-one (21) days after this Order is signed they
20 will provide Plaintiffs' Auditor with as many of the labor and financial records requested by
21 Plaintiffs' Counsel by email on January 18, 2023 as are in Defendants' possession or can be
22 obtained by Defendants and will further cooperate with any other reasonable request by the
23 Auditor for additional records that the Auditor deems necessary to complete the audit for the
24 period of November 1, 2017 through the present ("Audit Period");

3. This Stipulation to allow the Audit is made to avoid protracted litigation with accompanying costs and is not an admission of liability, waiver of defenses, or modification of any collective bargaining agreement or trust agreement on the part of any party;

4. The parties agree that the deadline for Defendants to file an answer or responsive pleading and all other case deadlines shall be stayed for ninety (90) days from the date of entry of Order on this Stipulation to allow time for the audit to be completed;

5. At the end of the stay, the parties will file a joint status report to update the Court on the status of the audit and whether the case will proceed to discovery; and

6. The stay does not apply to any motions that may be brought by Plaintiffs to compel compliance with this Stipulation and the disclosure of necessary audit information should the Defendants fail to cooperate with the Auditor and Plaintiffs' Counsel in completing the Audit.

DATED this 1st day of February, 2023.

CHRISTENSEN JAMES & MARTIN

By: /s/ Wesley J. Smith
Wesley J. Smith, Esq.
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Counsel for Plaintiffs

DATED this 1st day of February, 2023.

GORDON THOMAS HONEYWELL LLP

By: /s/ Shelly M. Andrew
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Counsel for Defendants

ORDER

Good Cause Appearing, Defendants Global Coatings LLC and Mark Andrew McCalman, shall submit to and cooperate with the audit in accordance with the foregoing Stipulation, and this Case and all deadlines shall be extended and stayed for a period of ninety (90) days in

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Counsel for the Plaintiffs

1 accordance with the Stipulation. All other provisions of the Stipulation are also approved and
2 Ordered.

3
4 DATED this 2nd day of February, 2023.

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6 HONORABLE JOHN H. CHUN
United States District Judge

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8 Presented by:

9
10 CHRISTENSEN JAMES & MARTIN

11 By: /s/ Wesley J. Smith
12 Wesley J. Smith, Esq.
13 WSBA # 51934
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